

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 19, 2022

FILED IN THE OFFICE
OF THE CLERK OF THE COURT
2022 APR 19 P 3:45

APPLICATION OF

ATMOS ENERGY CORPORATION

CASE NO. PUR-2022-00047

For approval of a SmartChoice Carbon Offset Rider
pursuant to § 56-236 of the Code of Virginia

ORDER FOR NOTICE AND COMMENT

On March 25, 2022, Atmos Energy Corporation ("Atmos" or "Company") filed an application ("Application") with the State Corporation Commission ("Commission") pursuant to § 56-236 of the Code of Virginia ("Code"), requesting approval for a new proposed SmartChoice Carbon Offset Rider ("SCCO Rider" or "SmartChoice Program"). The Company states that the SmartChoice Program is designed to give certain residential and large-volume customers the voluntary option to offset some or all of the carbon emissions associated with their natural gas usage through the Company's purchase of carbon offsets.¹

The Application states that through the SmartChoice Program, qualifying, participating customers will directly fund the Company's purchase of carbon credits, which once purchased will be retired collectively on behalf of the customers participating under the proposed SCCO Rider.² The Application further states participation in the program is voluntary and is designed to give participating customers a mechanism for offsetting natural gas usage emissions with carbon credits procured by Atmos.³ According to the Application, customers who elect to participate in the SmartChoice Program will contract for the Company's purchase of carbon

¹ Application at 1.

² *Id.* at 2.

³ *Id.*

20220419

credits each month.⁴ Atmos states that the average monthly usage for residential customers in Virginia is approximately 49.6 hundred cubic feet ("ccf").⁵ As proposed, the SmartChoice Program will allow residential customers to offset either 25%, 50%, or 100% of this average monthly usage for a fixed monthly contribution.⁶ For non-residential customer classes, the SmartChoice Program will offer volumetric options based directly on a customer's ccf contribution due to varying gas requirements among these customer classes.⁷ The Application states that for a fixed volumetric fee, these non-residential customers can target an offset percentage of either 25%, 50%, or 100% of their monthly gas usage.⁸

The Application states that, following approval by the Commission of this proposed SmartChoice Program, the Company tentatively anticipates implementation around November 2022, but a precise start date for customer participation under the program has not yet been determined.⁹ Atmos represents that all administrative costs incurred by the Company as part of the SmartChoice Program will be tracked separately through a deferred account and will be recovered from participating customers only, and that customers who are not enrolled members of SmartChoice will not bear any additional costs.¹⁰

To assist with the Commission's oversight of the SmartChoice Program, the Company proposes to file a Purchase Carbon Offset Adjustment ("PCOA") filing, similar to the Company's

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 2-3.

⁹ *Id.* at 3.

¹⁰ *Id.*

purchased gas adjustment filing, reviewing the balance of revenues and costs under SmartChoice at least once every twelve months.¹¹ Atmos states that the PCOA may propose to adjust rates prospectively under SmartChoice based on the actual and anticipated costs of purchasing carbon credits and administering the program.¹²

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that this matter should be docketed; the Company should provide public notice of its Application; that interested persons should be permitted to comment or request a hearing on the Company's Application; and Commission Staff ("Staff") should be directed to investigate the Application and file a report containing its findings and recommendations thereon. We further find that a Hearing Examiner should be assigned to rule on any discovery matter that may arise in this proceeding.

The Commission takes judicial notice of the ongoing public health issues related to the spread of the coronavirus, or COVID-19. The Commission has taken certain actions, and may take additional actions going forward, which could impact the procedures in this proceeding.¹³ Consistent with these actions, the Commission will, among other things, direct the electronic

¹¹ *Id.* at 4.

¹² *Id.*

¹³ See, e.g., *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic Service of Commission Orders*, Case No. CLK-2020-00004, Doc. Con. Cen. No. 200330035, Order Concerning Electronic Service of Commission Orders (Mar. 19, 2020), *extended by* Doc. Con. Cen. No. 200520105, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency*, Case No. CLK-2020-00005, Doc. Con. Cen. No. 200330042, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (Mar. 19, 2020) ("Revised Operating Procedures Order"), *extended by* Doc. Con. Cen. No. 200520105, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic service among parties during COVID-19 emergency*, Case No. CLK-2020-00007, Doc. Con. Cen. No. 200410009, Order Requiring Electronic Service (Apr. 1, 2020).

filing of pleadings, unless they contain confidential information, and require electronic service on parties to this proceeding.

Accordingly, IT IS ORDERED THAT:

(1) This case is docketed and assigned Case No. PUR-2022-00047.

(2) As provided by § 12.1-31 of the Code and 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice, the Commission assigns a Hearing Examiner to rule on any discovery matter that may arise during the course of this proceeding.

(3) All pleadings, briefs, or other documents required to be served in this matter shall be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice. Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

(4) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Rules of Practice, the Commission directs that service on parties and Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or Staff is impeded from preparing its case.

(5) On or before May 10, 2022, Atmos shall cause the following notice to be published as display advertising (not classified) on one occasion in newspapers of general circulation throughout the Company's service territory within the Commonwealth of Virginia:

APPLICATION OF ATMOS ENERGY CORPORATION,
FOR APPROVAL OF A SMARTCHOICE CARBON OFFSET
RIDER PURSUANT TO § 56-236 OF THE CODE OF VIRGINIA
CASE NO. PUR-2022-00047

On March 25, 2022, Atmos Energy Corporation ("Atmos" or "Company") filed an application ("Application") with the State Corporation Commission ("Commission") pursuant to § 56-236 of the Code of Virginia, requesting approval for a new proposed SmartChoice Carbon Offset Rider ("SCCO Rider" or "SmartChoice Program"). The Company states that the SmartChoice Program is designed to give certain residential and large-volume customers the voluntary option to offset some or all of the carbon emissions associated with their natural gas usage through the Company's purchase of carbon offsets.

The Application states that through the SmartChoice Program, qualifying, participating customers will directly fund the Company's purchase of carbon credits, which once purchased will be retired collectively on behalf of the customers participating under the proposed SCCO Rider. The Application further states participation in the program is voluntary and is designed to give participating customers a mechanism for offsetting natural gas usage emissions with carbon credits procured by Atmos.

According to the Application, customers who elect to participate in the SmartChoice Program will contract for the Company's purchase of carbon credits each month. Atmos states that the average monthly usage for residential customers in Virginia is approximately 49.6 hundred cubic feet ("ccf"). As proposed, the SmartChoice Program will allow residential customers to offset either 25%, 50%, or 100% of this average monthly usage for a fixed monthly contribution. For non-residential customer classes, the SmartChoice Program will offer volumetric options based directly on a customer's ccf contribution due to varying gas requirements among these customer classes. The Application states that for a fixed volumetric fee, these non-residential customers can target an offset percentage of either 25%, 50%, or 100% of their monthly gas usage.

The Application states that, following approval by the Commission of this proposed SmartChoice Program, the Company tentatively anticipates implementation around November 2022, but a precise start date for customer participation under the program has not yet been determined. Atmos represents that all administrative costs incurred by the Company as part of the

SmartChoice Program will be tracked separately through a deferred account and will be recovered from participating customers only, and that customers who are not enrolled members of SmartChoice will not bear any additional costs.

To assist with the Commission's oversight of the SmartChoice Program, the Company proposes to file a Purchase Carbon Offset Adjustment ("PCOA") filing, similar to the Company's purchased gas adjustment filing, reviewing the balance of revenues and costs under SmartChoice at least once every twelve months. Atmos states that the PCOA may propose to adjust rates prospectively under SmartChoice based on the actual and anticipated costs of purchasing carbon credits and administering the program.

The Commission entered an Order for Notice and Comment that, among other things, ordered the Company to provide notice of its Application and provided interested persons an opportunity to comment and/or request a hearing on the Company's Application.

The Commission has taken judicial notice of the ongoing public health issues related to the spread of the coronavirus, or COVID-19. In accordance therewith, all pleadings, briefs, or other documents required to be served in this matter should be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice. Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Rules of Practice, the Commission has directed that service on parties and the Commission's Staff in this matter shall be accomplished by electronic means. Please refer to the Commission's Order for Notice and Comment for further instructions concerning Confidential or Extraordinarily Sensitive Information.

Electronic copies of the Application may be obtained, at no charge, by submitting a written request to the Company's counsel, Timothy E. Biller, Esquire, and James G. Ritter, Esquire, Hunton Andrews Kurth LLP, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219, tbiller@huntonak.com,

ritterj@huntonak.com. A copy of the Application and related documents may be downloaded from the Commission's website: scc.virginia.gov/pages/Case-Information.

On or before May 31, 2022, any interested person or entity may submit comments on the Application with the Clerk of the Commission by following the instructions on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to submit comments electronically may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All such comments shall refer to Case No. PUR-2022-00047.

On or before May 31, 2022, any interested person or entity may file a request for a hearing on the Application with the Clerk of the Commission at scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file electronically may file a request for hearing by U.S. mail to the Clerk of the Commission at the address listed above. Such request for hearing shall include the email addresses of such parties or their counsel, if available. A copy of the request for hearing also must be sent to counsel for the Company. Requests for a hearing shall include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter. All requests for a hearing shall refer to Case No. PUR-2022-00047.

On or before May 31, 2022, any interested person or entity may participate as a respondent in this proceeding by filing a notice of participation with the Clerk of the Commission at: scc.virginia.gov/clk/efiling/. Those unable, as a practical matter, to file a notice of participation electronically may file such notice by U.S. mail to the Clerk of the Commission at the address listed above. Such notice of participation shall include the email addresses of such parties or their counsel, if available. A copy of the notice of participation must also be sent to counsel for the Company. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2022-00047.

Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified by the Commission's Order for Notice and Comment, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Rules of Practice. The Company's Application, the Commission's Rules of Practice, and the Commission's Order for Notice and Comment may be viewed at: scc.virginia.gov/pages/Case-Information.

ATMOS ENERGY CORPORATION

(6) On or before May 10, 2022, Atmos shall serve a copy of its Application and this Order for Notice and Comment on the following local officials, to the extent the position exists, in each county, city, and town in which Atmos provides service in the Commonwealth of Virginia: the chairman of the board of supervisors of each county; the mayor or manager (or equivalent official) of every city or town; and the county, city, or town attorney. Service shall be made electronically where possible; if electronic service is not possible, service shall be made by either personal delivery or first-class mail to the customary place of business or residence of the person served.

(7) On or before May 24, 2022, the Company shall file proof of the notice and service required by Ordering Paragraphs (5) and (6), including the name, title, address, and electronic mail address (if applicable) of each official serviced, with the Clerk of State Corporation Commission by filing electronically at scc.virginia.gov/clk/efiling/.

(8) An electronic copy of the Company's Application may be obtained by submitting a written request to counsel for the Company, Timothy E. Biller, Esquire, and James G. Ritter, Esquire, Hunton Andrews Kurth LLP, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219, tbiller@huntonak.com, ritterj@huntonak.com. A copy of the Application also may be downloaded from the Commission's website: scc.virginia.gov/pages/Case-Information.

(9) On or before May 31, 2022, any interested person or entity may submit comments on the Application by following the instructions found on the Commission's website:

scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to submit comments electronically may file such comments by U.S. mail to the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All comments shall refer to Case No. PUR-2022-00047.

(10) On or before May 31, 2022, any interested person or entity may file a request for a hearing with the Clerk of the Commission at scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file electronically may file a request for hearing by U.S. mail to the Clerk of the Commission at the address listed in Ordering Paragraph (9). Such request for hearing shall include the email addresses of such parties or their counsel, if available. A copy of such request for hearing shall be simultaneously served on counsel to the Company. Requests for a hearing shall include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter. All requests for a hearing shall refer to Case No. PUR-2022-00047.

(11) On or before May 31, 2022, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation with the Clerk of the Commission at scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file a notice of participation electronically may file such notice by U.S. mail to the Clerk of the Commission at the address in Ordering Paragraph (9). Such notice of participation shall include the email addresses of such parties or their counsel, if available. The respondent simultaneously shall serve a copy of the notice of participation on counsel to the Company. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Rules of Practice, any notice of

participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2022-00047.

(12) Within three (3) business days of receipt of a notice of participation as a respondent, the Company shall serve a copy of the Application on the respondent.

(13) On or before June 7, 2022, Atmos shall file with the Clerk of the Commission a response to any request for hearing filed in this docket and shall serve a copy of such filing on Staff and all respondents.

(14) The Staff shall investigate the Application and, on or before June 21, 2022, file with the Clerk of the Commission a report on the Company's Application containing Staff's findings and recommendations ("Staff Report").

(15) On or before July 8, 2022, Atmos shall file with the Clerk of the Commission any response to the Staff Report and any comments filed in this proceeding.

(16) All documents filed with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified herein, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

(17) Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified herein, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Rules of Practice.

(18) Atmos shall respond to written interrogatories or requests for the production of documents within five (5) business days after the receipt of the same. In addition to the service requirements of 5 VAC 5-20-260, *Interrogatories or requests for production of documents and things*, of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney, if the interrogatory or request for production is directed to Staff.¹⁴ Except as so modified, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(19) This matter is continued.

A COPY hereof shall be sent by the Clerk of the Commission to: Timothy E. Biller, Esquire, and James G. Ritter, Esquire, Hunton Andrews Kurth LLP, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219, tbiller@huntonak.com, ritterj@huntonak.com; and C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219, mbrowder@oag.state.va.us.

¹⁴ The assigned Staff attorney is identified on the Commission's website, scc.virginia.gov/pages/Case-Information, by clicking "Docket Search," then clicking "Search by Case Information," and entering the case number, PUR-2022-00047, in the appropriate box.